

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

I. Introduction

Claims 2-4, 11-26, 34, 35, 42, 46, 47, 49 and 50 are pending in this application. Claims 2-4, 11-13, 15-26, 34, 35, 42, 46 and 47 are amended. Support for the amendment to independent claim 47, in which the phrase “a third receptor or a third ligand” is changed to “analyte” and the phrase “for detection of the analyte” is added, is found at least on page 2, line 33 and page 24, line 33 of the specification. No new matter is added. Claims 1, 5, 27-32, 36, 37, 40 and 53 are cancelled without prejudice or disclaimer¹. Non-elected claims 6-10, 33, 38, 39, 41, 43, 44, 45, 48, 51, 52, 54-60 are cancelled without prejudice or disclaimer.

II. Interview Summary

Applicants thank Examiner Lam for conducting a telephonic interview with Applicants' counsel on December 14, 2007. During the interview, Examiner and Applicants' counsel discussed the rejection of independent claim 47. The Examiner proposed making clarifying amendments to the claims, such as those submitted herewith, to better explain the claimed subject matter. To expedite prosecution of this application, Applicants' counsel agreed to cancel all other independent claims without prejudice or disclaimer.

III. Prior Art Rejections Should Be Withdrawn

Claims 1-5, 11-13, 15, 17-26, 34, 35, 37, 40, 42, 46, 47, 49, 50 and 53 were rejected under 35 U.S.C. § 103(a) as being obvious over Altmann (U.S. Patent No. 6,545,492) in view of Thundat (U.S. Patent No. 6,289,717). These rejections are respectfully traversed.

¹ These claims are being cancelled to expedite the allowance of the present application. The cancellation of these claims should not be construed as acquiescence that the rejection of these claims is proper and applicants respectfully reserve the right to present the cancelled claims in a continuation application.

A. Independent Claim 1

Independent claim 1 has been cancelled in this response.

B. Independent Claim 37

Independent claim 37 has been cancelled in this response.

C. Independent Claim 47

Page 15, last paragraph of the Final Office Action states:

Applicants also argue that regarding claim 47, the references do not teach that the first receptor or ligand and the second receptor or ligand are capable of binding to a third receptor or ligand in a solution. This is not persuasive because Applicants have not recited that the third receptor or ligand is an analyte, or that the first receptor or ligand and/or second receptor or ligand are capable of binding to the third receptor or ligand for detection of the third receptor or ligand. Such intended use language would require that the first and/or second receptor (or ligand) have this capability, and Examiner agrees that the references do not teach such a capability since the cantilever is precoated with the linker and receptor.

(emphasis added).

Clarifying amendments have been made to claim 47. Specifically, the phrase “a third receptor or a third ligand” has been replaced with the word “analyte,” and the phrase “for detection of the analyte” has been added before the period. Accordingly, Applicants respectfully submit that even if there was motivation to combine the devices of Altmann and Thundat, then the cantilever of the resulting devices would not possess the capability of an analyte to bind to both the first receptor or ligand and to the second receptor or ligand at a same time, as recited in claim 47.

D. Dependent Claims

Dependent claims 2, 3, 4, 11-26, 34, 35, 42, 46, 49 and 50 were rejected under § 103(a) over Altmann in view of Thundat. All dependent claims that remain in this application now depend from claim 47. Applicants respectfully submit that rejection of the

dependent claims should be withdrawn, at least for the reasons discussed with regard to claim 47.

IV. Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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